

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**IN RE: NATIONAL PRESCRIPTION  
OPIATE LITIGATION**

**THIS DOCUMENT RELATES TO:**

*The Muscogee (Creek) Nation v.  
Purdue Pharma L.P., et al.,*  
Case No. 1:18-op-45459-DAP

**MDL No. 2804**

**Case No. 17-md-2804**

**Judge Dan Aaron Polster**

**DEFENDANT SMITH DRUG COMPANY'S  
ANSWER AND AFFIRMATIVE DEFENSES  
TO PLAINTIFF'S FIRST AMENDED COMPLAINT**

Defendant J M Smith Corporation, improperly named as Smith Drug Company ("Smith Drug"),<sup>1</sup> by and through undersigned counsel, hereby responds to Plaintiff's First Amended Complaint ("FAC") as follows:<sup>2</sup>

The FAC contains an initial, unnumbered paragraph in violation of Federal Rule of Civil Procedure 10(b), which requires a claim be stated in numbered paragraphs, and therefore no response is required. To the extent a response is required, it is admitted only that, by this action, Plaintiff asserts claims against pharmaceutical manufacturers of prescription opioid drugs and claims against entities in the supply chain for prescription opioid drugs. By way of further

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<sup>1</sup> Capacity of an unincorporated division to sue or be sued is determined by the law of the state where the court is located. Fed. R. Civ. P. 17(b)(3). Under Ohio law, "an unincorporated division" like Smith Drug Company, "has no separate legal identity from the corporation of which it is a part." *Glidden Co. v. Lumbermens Mut. Cas. Co.*, No. 81782, 2004-Ohio-6922, at \*5 (Ohio Ct. App. 8th Dist. Dec. 17, 2004), *rev'd on other grounds*, 861 N.E.2d 109 (Ohio 2006). Indeed, the "existence of an unincorporated division reflects no more than a firm's decision to adopt an organizational division of labor." *Copperweld Corp. v. Independence Tube Corp.*, 467 U.S. 752, 770 (1984). Accordingly, Smith Drug understands Plaintiff to be suing J M Smith Corporation.

<sup>2</sup> To the extent any allegation in the FAC refers to or concerns the "Defendants" and/or "Distributor Defendants" as a group, Smith Drug's response is to be considered a response to those allegations as if they were directed to Smith Drug only. This statement is incorporated by reference into Smith Drug's responses to each paragraph in the FAC.

response, this paragraph contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in this paragraph.

### **INTRODUCTION**

1. Admitted only that prescription opioid medication can help manage pain for certain patients.<sup>3</sup> Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 1, and therefore denies the allegations in Paragraph 1. In addition, Paragraph 1 contains one or more legal statements or conclusions to which no response is required.

2. Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 2, and therefore denies the allegations in Paragraph 2. In addition, Paragraph 2 contains one or more legal statements or conclusions to which no response is required. Paragraph 2 also refers to and/or appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

3. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 3 as against defendants other than Smith Drug, and therefore denies the allegations in Paragraph 3. In addition, Paragraph 3 contains one or more legal statements or conclusions to which no response is required.

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<sup>3</sup> Any statement or allegation contained in the FAC not expressly admitted is hereby denied, including without limitation any allegation contained in the preamble, unnumbered paragraphs, headings, subheadings, and footnotes of the FAC. This statement is incorporated by reference into Smith Drug's responses to each paragraph in the FAC.

4. The allegations in Paragraph 4 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 4, and therefore denies the allegations in Paragraph 4. In addition, Paragraph 4 contains one or more legal statements or conclusions to which no response is required.

5. The allegations in Paragraph 5 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 5, and therefore denies the allegations in Paragraph 5. Paragraph 5 also refers to and/or appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

6. The allegations in Paragraph 6 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 6, and therefore denies the allegations in Paragraph 6. In addition, Paragraph 6 contains one or more legal statements or conclusions to which no response is required. Paragraph 6 also refers to and/or appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

7. Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 7, and

therefore denies the allegations in Paragraph 7. In addition, Paragraph 7 contains one or more legal statements or conclusions to which no response is required. Paragraph 7 also refers to and/or appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

8. Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 8, and therefore denies the allegations in Paragraph 8. In addition, Paragraph 8 contains one or more legal statements or conclusions to which no response is required.

9. The allegations in Paragraph 9 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 9, and therefore denies the allegations in Paragraph 9.

10. The allegations in Paragraph 10 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 10. In addition, Paragraph 10 contains one or more legal statements or conclusions to which no response is required.

11. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 11. In addition, Paragraph 11 contains one or more legal statements or conclusions to which no response is required.

12. The allegations in Paragraph 12 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 12. In addition, Paragraph 12 contains one or more legal statements or conclusions to which no response is required. Paragraph 12 also refers to and/or appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

13. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 13. Paragraph 13 also refers to and/or appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

14. Denied as to Smith Drug. The allegations in Paragraph 14 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required as to those allegations. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 14, and therefore denies the allegations in Paragraph 14. In addition, Paragraph 14 contains one or more legal statements or conclusions to which no response is required.

15. Denied as to Smith Drug. The allegations in Paragraph 15 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required as to those allegations. To the extent a response is required, Smith Drug, after

reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 15. In addition, Paragraph 15 contains one or more legal statements or conclusions to which no response is required. Paragraph 15 also refers to and/or appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

16. Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 16, and therefore denies the allegations in Paragraph 16. Paragraph 16 also refers to and/or appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

17. The allegations in Paragraph 17 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 17. In addition, Paragraph 17 contains one or more legal statements or conclusions to which no response is required. Paragraph 17 also refers to and/or appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

18. Denied as to Smith Drug. The allegations in Paragraph 18 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required as to those allegations. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an

opinion as to the truth or falsity of the allegations in Paragraph 18, and therefore denies the allegations in Paragraph 18. In addition, Paragraph 18 contains one or more legal statements or conclusions to which no response is required. Paragraph 18 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

19. Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 19, and therefore denies the allegations in Paragraph 19. Paragraph 19 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

20. Denied as to Smith Drug. The allegations in Paragraph 20 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required as to those allegations. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 20, and therefore denies the allegations in Paragraph 20. In addition, Paragraph 20 contains one or more legal statements or conclusions to which no response is required.

21. Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 21, and therefore denies the allegations in Paragraph 21. In addition, Paragraph 21 contains one or more legal statements or conclusions to which no response is required.

22. Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 22,

and therefore denies the allegations in Paragraph 22. In addition, Paragraph 22 contains one or more legal statements or conclusions to which no response is required.

23. Admitted only that, by this action, Plaintiff asserts claims against pharmaceutical manufacturers of prescription opioid drugs and claims against entities in the supply chain for prescription opioid drugs. To the extent a further response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 23, and therefore denies the allegations in Paragraph 23. In addition, Paragraph 23 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 23.

24. Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 24, and therefore denies the allegations in Paragraph 24. Paragraph 24 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 24.

## **PARTIES**

### **I. PLAINTIFF**

25. Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 25, and therefore denies the allegations in Paragraph 25.

26. Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 26, and therefore denies the allegations in Paragraph 26.



27. Admitted only that, by this action, Plaintiff asserts claims against pharmaceutical manufacturers of prescription opioid drugs and claims against entities in the supply chain for prescription opioid drugs. To the extent a further response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 27, and therefore denies the allegations in Paragraph 27.

## **II. DEFENDANTS**

### **A. Marketing Manufacturer Defendants**

28. The allegations in Paragraph 28 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 28, and therefore denies the allegations in Paragraph 28.

29. The allegations in Paragraph 29 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 29.

30. The allegations in Paragraph 30 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 30, and therefore denies the allegations in Paragraph 30.

31. The allegations in Paragraph 31 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 31.

32. The allegations in Paragraph 32 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 32.

33. The allegations in Paragraph 33 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 33.

34. The allegations in Paragraph 34 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 34.

35. The allegations in Paragraph 35 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge,

information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 35.

36. The allegations in Paragraph 36 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 36.

37. The allegations in Paragraph 37 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 37.

38. The allegations in Paragraph 38 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 38.

39. The allegations in Paragraph 39 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 39.

40. The allegations in Paragraph 40 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 40. In addition, Paragraph 40 contains one or more legal statements or conclusions to which no response is required.

**B. Diversion Manufacturer Defendants**

41. The allegations in Paragraph 41 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 41.

42. The allegations in Paragraph 42 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 42.

43. The allegations in Paragraph 43 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 43. In addition, Paragraph 43 contains one or more legal statements or conclusions to which no response is required.

**C. Distributor Defendants**

44. The allegations in Paragraph 44 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 44.

45. The allegations in Paragraph 45 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 45.

46. The allegations in Paragraph 46 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 46.

47. The allegations in Paragraph 47 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 47.

48. The allegations in Paragraph 48 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a

response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 48.

49. The allegations in Paragraph 49 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 49.

50. The allegations in Paragraph 50 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 50.

51. The allegations in Paragraph 51 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 51.

52. The allegations in Paragraph 52 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 52.

53. The allegations in Paragraph 53 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 53.

54. The allegations in Paragraph 54 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 54.

55. The allegations in Paragraph 55 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 55.

56. The allegations in Paragraph 56 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 56.

57. The allegations in Paragraph 57 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge,

information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 57.

58. Admitted in part; denied in part. Denied that Smith Drug is a South Carolina “business entity”: as an unincorporated division of J M Smith Corporation, Smith Drug (defined in the FAC as “Smith”), “has no separate legal identity from the corporation of which it is a part.” *Glidden Co. v. Lumbermens Mut. Cas. Co.*, No. 81782, 2004-Ohio-6922, at ¶ 38 (Ohio Ct. App. 8th Dist. Dec. 17, 2004), *rev’d on other grounds*, 861 N.E.2d 109 (Ohio 2006). As the Supreme Court has observed, the “existence of an unincorporated division reflects no more than a firm’s decision to adopt an organizational division of labor.” *Copperweld Corp. v. Independence Tube Corp.*, 467 U.S. 752, 770 (1984). J M Smith Corporation is a South Carolina corporation with its principal place of business in South Carolina. Admitted that Smith Drug has distributed opioid medications in Oklahoma. To the extent a further response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the remaining allegations in Paragraph 58.

59. The allegations in Paragraph 59 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 59.

60. The allegations in Paragraph 60 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge,



information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 60.

61. The allegations in Paragraph 61 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 61.

62. Denied as to Smith Drug. The allegations in Paragraph 62 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required as to those allegations. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 62. In addition, Paragraph 62 contains one or more legal statements or conclusions to which no response is required.

**D. Pharmacy Defendants**

63. The allegations in Paragraph 63 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 63.

64. The allegations in Paragraph 64 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge,

information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 64.

65. The allegations in Paragraph 65 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 65.

66. The allegations in Paragraph 66 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 66.

67. The allegations in Paragraph 67 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 67.

68. The allegations in Paragraph 68 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 68.

69. The allegations in Paragraph 69 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 69.

70. The allegations in Paragraph 70 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 70.

71. The allegations in Paragraph 71 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 71.

72. The allegations in Paragraph 72 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 72.

73. The allegations in Paragraph 73 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge,

information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 73.

74. The allegations in Paragraph 74 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 74.

75. The allegations in Paragraph 75 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 75.

76. The allegations in Paragraph 76 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 76.

77. The allegations in Paragraph 77 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 77.

78. The allegations in Paragraph 78 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 78.

79. The allegations in Paragraph 79 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 79.

80. The allegations in Paragraph 80 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 80.

81. The allegations in Paragraph 81 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 81.

82. The allegations in Paragraph 82 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge,

information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 82.

83. The allegations in Paragraph 83 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 83.

84. The allegations in Paragraph 84 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 84.

85. The allegations in Paragraph 85 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 85.

86. The allegations in Paragraph 86 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 86.

87. The allegations in Paragraph 87 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 87.

88. The allegations in Paragraph 88 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 88.

89. The allegations in Paragraph 89 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 89.

90. The allegations in Paragraph 90 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 90.

91. The allegations in Paragraph 91 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge,

information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 91.

92. The allegations in Paragraph 92 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 92. In addition, Paragraph 92 contains one or more legal statements or conclusions to which no response is required.

### **JURISDICTION AND VENUE**

93. Paragraph 93 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 93.

94. Paragraph 94 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 94.

95. Paragraph 95 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 95.

### **FACTUAL BACKGROUND**

96. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 96.



97. The allegations in this paragraph contain legal conclusions to which no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 97.

98. Denied as to Smith Drug. The allegations in Paragraph 98 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required as to those allegations. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 98. In addition, Paragraph 98 contains one or more legal statements or conclusions to which no response is required.

99. The allegations in Paragraph 99 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 99. In addition, Paragraph 99 contains one or more legal statements or conclusions to which no response is required.

100. The allegations in Paragraph 100 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 100. In addition, Paragraph 100 contains one or more legal statements or conclusions to which no response is required.

101. The allegations in Paragraph 101 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 101. In addition, Paragraph 101 contains one or more legal statements or conclusions to which no response is required.

102. The allegations in Paragraph 102 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 102.

103. The allegations in Paragraph 103 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 103.

104. The allegations in Paragraph 104 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 104. Paragraph 104 also refers to and/or appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

105. The allegations in Paragraph 105 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 105. Paragraph 105 also refers to and/or appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

106. The allegations in Paragraph 106 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 106. Paragraph 106 also refers to and/or appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

107. The allegations in Paragraph 107 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 107. Paragraph 107 also refers to and/or appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

108. The allegations in Paragraph 108 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the

extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 108. Paragraph 108 also refers to and/or appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

109. The allegations in Paragraph 109 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 109. Paragraph 109 also refers to and/or appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

110. The allegations in Paragraph 110 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 110. Paragraph 110 also refers to and/or appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

111. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 111. In addition, Paragraph 111 contains one or more legal statements or conclusions to which no response is required. Paragraph 111 also refers to and/or

appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

112. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 112. Paragraph 112 also refers to and/or appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

113. The allegations in Paragraph 113 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 113. Paragraph 113 also refers to and/or appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

114. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 114. Paragraph 114 also refers to and/or appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

115. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 115. Paragraph 115 also refers to and/or appears to refer to

one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

116. The allegations in Paragraph 116 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 116. In addition, Paragraph 116 contains one or more legal statements or conclusions to which no response is required.

117. The allegations in Paragraph 117 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 117. Paragraph 117 also refers to and/or appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

118. The allegations in Paragraph 118 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 118. Paragraph 118 also refers to and/or appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

119. The allegations in Paragraph 119 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 119.

120. The allegations in Paragraph 120 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 120. In addition, Paragraph 120 contains one or more legal statements or conclusions to which no response is required.

121. The allegations in Paragraph 121 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 121. Paragraph 121 also refers to and/or appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

122. The allegations in Paragraph 122 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 122. Paragraph 122 also refers to and/or appears to

refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

123. The allegations in Paragraph 123 are directed at and/or describes the conduct of a defendant other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 123. Paragraph 123 also refers to and/or appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

124. The allegations in Paragraph 124 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 124. Paragraph 124 also refers to and/or appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

125. The allegations in Paragraph 125 are directed at and/or describes the conduct of a defendant other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 125. In addition, Paragraph 125 contains one or more legal statements or conclusions to which no response is required.



126. The allegations in Paragraph 126 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 126.

127. The allegations in Paragraph 127 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 127.

128. The allegations in Paragraph 128 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 128. Paragraph 128 also refers to and/or appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

129. The allegations in Paragraph 129 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 129. Paragraph 129 also refers to and/or appears to

refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

130. The allegations in Paragraph 130 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 130, and therefore denies the allegations in Paragraph 130.

131. The allegations in Paragraph 131 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 131, and therefore denies the allegations in Paragraph 131. Paragraph 131 also refers to and/or appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

132. The allegations in Paragraph 132 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 132, and therefore denies the allegations in Paragraph 132. Paragraph 132 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

133. The allegations in Paragraph 133 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the

extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 133, and therefore denies the allegations in Paragraph 133. Paragraph 133 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

134. The allegations in Paragraph 134 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 134, and therefore denies the allegations in Paragraph 134. Paragraph 134 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

135. The allegations in Paragraph 135 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 135, and therefore denies the allegations in Paragraph 135.

136. The allegations in Paragraph 136 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 136, and therefore denies the allegations in Paragraph 136. Paragraph 136 also refers

to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

137. The allegations in Paragraph 137 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 137, and therefore denies the allegations in Paragraph 137. Paragraph 137 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

138. The allegations in Paragraph 138 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 138, and therefore denies the allegations in Paragraph 138.

139. The allegations in Paragraph 139 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 139, and therefore denies the allegations in Paragraph 139. Paragraph 139 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

140. The allegations in Paragraph 140 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the

extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 140, and therefore denies the allegations in Paragraph 140. Paragraph 140 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

141. The allegations in Paragraph 141 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 141, and therefore denies the allegations in Paragraph 141. Paragraph 141 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

142. The allegations in Paragraph 142 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 142, and therefore denies the allegations in Paragraph 142. Paragraph 142 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

143. The allegations in Paragraph 143 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in

Paragraph 143, and therefore denies the allegations in Paragraph 143. Paragraph 143 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

144. The allegations in Paragraph 144 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 144, and therefore denies the allegations in Paragraph 144. In addition, Paragraph 144 contains one or more legal statements or conclusions to which no response is required. Paragraph 144 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

145. The allegations in Paragraph 145 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 145, and therefore denies the allegations in Paragraph 145. Paragraph 145 also appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

146. The allegations in Paragraph 146 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 146, and therefore denies the allegations in Paragraph 146. Paragraph 146 also

appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

147. The allegations in Paragraph 147 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 147. Paragraph 147 also appears to refer to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

148. The allegations in Paragraph 148 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 148, and therefore denies the allegations in Paragraph 148. In addition, Paragraph 148 contains one or more legal statements or conclusions to which no response is required. Paragraph 148 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

149. The allegations in Paragraph 149 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 149. In addition, Paragraph 149 contains one or more legal statements or conclusions to which no response is required.

150. The allegations in Paragraph 150 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 150. In addition, Paragraph 150 contains one or more legal statements or conclusions to which no response is required.

151. The allegations in Paragraph 151 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 151. In addition, Paragraph 151 contains one or more legal statements or conclusions to which no response is required.

152. The allegations in Paragraph 152 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 152. In addition, Paragraph 152 contains one or more legal statements or conclusions to which no response is required.

153. The allegations in Paragraph 153 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and



therefore denies the allegations in Paragraph 153. In addition, Paragraph 153 contains one or more legal statements or conclusions to which no response is required.

154. The allegations in Paragraph 154 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 154. In addition, Paragraph 154 contains one or more legal statements or conclusions to which no response is required.

155. The allegations in Paragraph 155 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 155. In addition, Paragraph 155 contains one or more legal statements or conclusions to which no response is required.

156. The allegations in Paragraph 156 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 156. In addition, Paragraph 156 contains one or more legal statements or conclusions to which no response is required.

157. The allegations in Paragraph 157 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge,

information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 157. In addition, Paragraph 157 contains one or more legal statements or conclusions to which no response is required.

158. The allegations in Paragraph 158 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 158, and therefore denies the allegations in Paragraph 158. In addition, Paragraph 158 contains one or more legal statements or conclusions to which no response is required. Paragraph 158 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

159. The allegations in Paragraph 159 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 159. In addition, Paragraph 159 contains one or more legal statements or conclusions to which no response is required.

160. The allegations in Paragraph 160 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 160. In addition, Paragraph 160 contains one or more legal statements or conclusions to which no response is required.

161. The allegations in Paragraph 161 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 161. In addition, Paragraph 161 contains one or more legal statements or conclusions to which no response is required.

162. Paragraph 162 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 162.

163. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 163. Paragraph 163 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 163.

164. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 164. In addition, Paragraph 164 contains one or more legal statements or conclusions to which no response is required.

165. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 165. In addition, Paragraph 165 contains one or more legal statements or conclusions to which no response is required.

166. Paragraph 166 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 166.

167. Paragraph 167 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 167.

168. Paragraph 168 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 168.

169. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 169. In addition, Paragraph 169 contains one or more legal statements or conclusions to which no response is required.

170. The allegations in Paragraph 170 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. In addition, Paragraph 170 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 170.

171. The allegations in Paragraph 171 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. In addition, Paragraph 171 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 171.

172. The allegations in Paragraph 172 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. In addition, Paragraph 172 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 172.

173. The allegations in Paragraph 173 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. In addition, Paragraph 173 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 173. Paragraph 173 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

174. The allegations in Paragraph 174 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 174, and therefore denies the allegations in Paragraph 174. In addition, Paragraph 174 contains one or more legal statements or conclusions to which no response is required. Paragraph 174 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

175. The allegations in Paragraph 175 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge,

information, or belief sufficient to form an opinion as to the truth or falsity of the allegations in Paragraph 175, and therefore denies the allegations in Paragraph 175. In addition, Paragraph 175 contains one or more legal statements or conclusions to which no response is required. Paragraph 175 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

176. The allegations in Paragraph 176 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 176. In addition, Paragraph 176 contains one or more legal statements or conclusions to which no response is required.

177. The allegations in Paragraph 177 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 177. In addition, Paragraph 177 contains one or more legal statements or conclusions to which no response is required.

178. Paragraph 178 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 178.

179. Paragraph 179 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 179.

180. Paragraph 180 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 180.

181. Paragraph 181 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 181.

182. Paragraph 182 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 182.

183. Paragraph 183 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 183.

184. Paragraph 184 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 184.

185. Paragraph 185 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 185.

186. The allegations in Paragraph 186 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 186 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 186.

187. The allegations in Paragraph 187 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 187. In addition, Paragraph 187 also contains one or more legal statements or conclusions to which no response is required.

188. The allegations in Paragraph 188 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 188 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 188.

189. The allegations in Paragraph 189 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 189 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 189.

190. The allegations in Paragraph 190 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 190 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 190.

191. The allegations in Paragraph 191 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the



extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 191. In addition, Paragraph 191 contains one or more legal statements or conclusions to which no response is required.

192. The allegations in Paragraph 192 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 192. In addition, Paragraph 192 contains one or more legal statements or conclusions to which no response is required.

193. The allegations in Paragraph 193 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 193.

194. The allegations in Paragraph 194 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 194. In addition, Paragraph 194 contains one or more legal statements or conclusions to which no response is required.

195. The allegations in Paragraph 195 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the

extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 195. In addition, Paragraph 195 contains one or more legal statements or conclusions to which no response is required.

196. The allegations in Paragraph 196 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 196 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 196.

197. The allegations in Paragraph 197 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 197.

198. The allegations in Paragraph 198 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 198. Paragraph 198 also contains one or more legal statements or conclusions to which no response is required.

199. The allegations in Paragraph 199 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 199 also contains one or more legal statements or conclusions to which no response is required.

To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 199.

200. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 200.

201. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 201.

202. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 202.

203. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 203. Paragraph 203 also refers to one or more written documents or websites, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

204. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 204.

205. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 205. Paragraph 205 also refers to one or more written

documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

206. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 206. Paragraph 206 also refers to one or more written documents or websites, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

207. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 207. Paragraph 207 also refers to one or more written documents or websites, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

208. Admitted in part; denied in part. Admitted that Smith Drug has publicly stated its commitment to help end the opioid epidemic. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations as to other defendants and therefore denies the remaining allegations in Paragraph 208. Paragraph 208 also refers or appears to refer to one or more written documents or website, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

209. The allegations in Paragraph 209 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and

therefore denies the allegations in Paragraph 209. Paragraph 209 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

210. The allegations in Paragraph 210 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 210. Paragraph 210 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

211. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 211 as to other defendants. In addition, Paragraph 211 contains one or more legal statements or conclusions to which no response is required.

212. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 212 as against other defendants. In addition, Paragraph 212 contains one or more legal statements or conclusions to which no response is required.

213. The allegations in Paragraph 213 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge,

information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 213.

214. The allegations in Paragraph 214 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 214. Paragraph 214 also refers to one or more written documents or websites, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

215. The allegations in Paragraph 215 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 215. Paragraph 215 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

216. The allegations in Paragraph 216 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 216. Paragraph 216 also refers to one or more written documents or websites, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

217. The allegations in Paragraph 217 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 217. Paragraph 217 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

218. The allegations in Paragraph 218 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 218.

219. The allegations in Paragraph 219 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 219. Paragraph 219 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

220. The allegations in Paragraph 220 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and

therefore denies the allegations in Paragraph 220. Paragraph 220 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

221. The allegations in Paragraph 221 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 221.

222. The allegations in Paragraph 222 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 222. Paragraph 222 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

223. The allegations in Paragraph 223 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 223. Paragraph 223 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.



224. The allegations in Paragraph 224 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 224. Paragraph 224 also contains one or more legal statements or conclusions to which no response is required.

225. The allegations in Paragraph 225 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 225. Paragraph 225 also contains one or more legal statements or conclusions to which no response is required.

226. The allegations in Paragraph 226 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 226. Paragraph 226 also contains one or more legal statements or conclusions to which no response is required.

227. The allegations in Paragraph 227 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and

therefore denies the allegations in Paragraph 227. Paragraph 227 also contains one or more legal statements or conclusions to which no response is required.

228. The allegations in Paragraph 228 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 228.

229. The allegations in Paragraph 229 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 229. Paragraph 229 also contains one or more legal statements or conclusions to which no response is required.

230. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 230. Paragraph 230 also contains one or more legal statements or conclusions to which no response is required.

231. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 231. Paragraph 231 also contains one or more legal statements or conclusions to which no response is required.

232. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 232. In addition, Paragraph 232 contains one or more legal statements or conclusions to which no response is required.

233. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 233. In addition, Paragraph 233 contains one or more legal statements or conclusions to which no response is required.

234. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 234. In addition, Paragraph 234 contains one or more legal statements or conclusions to which no response is required.

235. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the allegations in Paragraph 235. In addition, Paragraph 235 contains one or more legal statements or conclusions to which no response is required.

236. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the allegations in Paragraph 236. In addition,

Paragraph 236 contains one or more legal statements or conclusions to which no response is required.

237. The allegations in Paragraph 237 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 237.

238. The allegations in Paragraph 238 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 238. Paragraph 238 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

239. The allegations in Paragraph 239 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 239. Paragraph 239 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

240. The allegations in Paragraph 240 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the

extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 240. Paragraph 240 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

241. The allegations in Paragraph 241 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 241. Paragraph 241 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

242. The allegations in Paragraph 242 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 242. Paragraph 242 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof. Paragraph 242 also contains one or more legal statements or conclusions to which no response is required.

243. The allegations in Paragraph 243 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge,

information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 243. Paragraph 243 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

244. The allegations in Paragraph 244 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 244. Paragraph 244 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof. Paragraph 244 also contains one or more legal statements or conclusions to which no response is required.

245. The allegations in Paragraph 245 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 245. Paragraph 245 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof. Paragraph 245 also contains one or more legal statements or conclusions to which no response is required.

246. The allegations in Paragraph 246 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge,

information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 246. Paragraph 246 also contains one or more legal statements or conclusions to which no response is required.

247. The allegations in Paragraph 247 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 247. Paragraph 247 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

248. The allegations in Paragraph 248 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 248. Paragraph 248 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

249. The allegations in Paragraph 249 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 249. Paragraph 249 also refers to one or more

written documents or websites, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

250. The allegations in Paragraph 250 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 250. Paragraph 250 also refers to one or more written documents or websites, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

251. The allegations in Paragraph 251 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 251. Paragraph 251 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

252. The allegations in Paragraph 252 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 252. In addition, Paragraph 252 contains one or more legal statements or conclusions to which no response is required. Paragraph 252 also refers



to one or more written documents or websites, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

253. The allegations in Paragraph 253 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 253. Paragraph 253 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

254. The allegations in Paragraph 254 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 254. Paragraph 254 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

255. The allegations in Paragraph 255 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 255. In addition, Paragraph 255 contains one or more legal statements or conclusions to which no response is required.

256. The allegations in Paragraph 256 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 256. Paragraph 256 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

257. The allegations in Paragraph 257 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 257. Paragraph 257 also contains one or more legal statements or conclusions to which no response is required.

258. The allegations in Paragraph 258 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 258. Paragraph 258 also contains one or more legal statements or conclusions to which no response is required.

259. The allegations in Paragraph 259 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and

therefore denies the allegations in Paragraph 259. Paragraph 259 also contains one or more legal statements or conclusions to which no response is required.

260. The allegations in Paragraph 260 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 260. Paragraph 260 also contains one or more legal statements or conclusions to which no response is required.

261. The allegations in Paragraph 261 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 261. Paragraph 261 also contains one or more legal statements or conclusions to which no response is required.

262. The allegations in Paragraph 262 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 262.

263. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 263.

Paragraph 263 also contains one or more legal statements or conclusions to which no response is required.

264. The allegations in Paragraph 264 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 264. Paragraph 264 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

265. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 265. Paragraph 265 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

266. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 266. Paragraph 266 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

267. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 267. Paragraph 267 also refers to one or more written

documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

268. The allegations in Paragraph 268 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 268. Paragraph 268 also contains one or more legal statements or conclusions to which no response is required.

269. The allegations in Paragraph 269 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 269. Paragraph 269 also contains one or more legal statements or conclusions to which no response is required.

270. The allegations in Paragraph 270 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 270. Paragraph 270 also contains one or more legal statements or conclusions to which no response is required.

271. The allegations in Paragraph 271 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge,

information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 271. Paragraph 271 also contains one or more legal statements or conclusions to which no response is required.

272. The allegations in Paragraph 272 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 272. Paragraph 272 also contains one or more legal statements or conclusions to which no response is required.

273. The allegations in Paragraph 273 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 273. Paragraph 273 also contains one or more legal statements or conclusions to which no response is required.

274. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 274. Paragraph 274 also contains one or more legal statements or conclusions to which no response is required.

275. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 275.

Paragraph 275 also contains one or more legal statements or conclusions to which no response is required.

276. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 276. Paragraph 276 also contains one or more legal statements or conclusions to which no response is required.

277. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 277. Paragraph 277 also contains one or more legal statements or conclusions to which no response is required.

278. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 278. Paragraph 278 also contains one or more legal statements or conclusions to which no response is required.

279. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 279. Paragraph 279 also contains one or more legal statements or conclusions to which no response is required.

280. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 280. Paragraph 280 also contains one or more legal statements or conclusions to which no response is required.

281. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 281. Paragraph 281 also contains one or more legal statements or conclusions to which no response is required.

282. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 282. Paragraph 282 also contains one or more legal statements or conclusions to which no response is required.

283. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 283. Paragraph 283 also contains one or more legal statements or conclusions to which no response is required.

284. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the



remaining allegations, and therefore denies the allegations in Paragraph 284. Paragraph 284 also contains one or more legal statements or conclusions to which no response is required.

285. The allegations in Paragraph 285 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 285. Paragraph 285 also contains one or more legal statements or conclusions to which no response is required.

286. The allegations in Paragraph 286 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 286. Paragraph 286 also contains one or more legal statements or conclusions to which no response is required.

287. The allegations in Paragraph 287 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 287. Paragraph 287 also contains one or more legal statements or conclusions to which no response is required.

288. The allegations in Paragraph 288 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge,

information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 288. Paragraph 288 also contains one or more legal statements or conclusions to which no response is required.

289. The allegations in Paragraph 289 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 289. Paragraph 289 also contains one or more legal statements or conclusions to which no response is required.

290. The allegations in Paragraph 290 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 290. Paragraph 290 also contains one or more legal statements or conclusions to which no response is required.

291. The allegations in Paragraph 291 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 291. Paragraph 291 also contains one or more legal statements or conclusions to which no response is required.

292. The allegations in Paragraph 292 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the

extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 292. Paragraph 292 also contains one or more legal statements or conclusions to which no response is required.

293. The allegations in Paragraph 293 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 293. Paragraph 293 also contains one or more legal statements or conclusions to which no response is required.

294. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 294. Paragraph 294 also contains one or more legal statements or conclusions to which no response is required.

295. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 295. In addition, Paragraph 295 contains one or more legal statements or conclusions to which no response is required.

296. The allegations in Paragraph 296 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge,

information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 296. Paragraph 296 also contains one or more legal statements or conclusions to which no response is required.

297. The allegations in Paragraph 297 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 297. Paragraph 297 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof. Paragraph 297 also contains one or more legal statements or conclusions to which no response is required.

298. The allegations in Paragraph 298 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 298. Paragraph 298 also contains one or more legal statements or conclusions to which no response is required.

299. The allegations in Paragraph 299 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 299. Paragraph 299 also contains one or more legal statements or conclusions to which no response is required.

300. The allegations in Paragraph 300 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 300. Paragraph 300 also contains one or more legal statements or conclusions to which no response is required.

301. The allegations in Paragraph 301 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 301. Paragraph 301 also contains one or more legal statements or conclusions to which no response is required.

302. The allegations in Paragraph 302 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 302. Paragraph 302 also contains one or more legal statements or conclusions to which no response is required.

303. The allegations in Paragraph 303 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and

therefore denies the allegations in Paragraph 303. Paragraph 303 also contains one or more legal statements or conclusions to which no response is required.

304. The allegations in Paragraph 304 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 304. Paragraph 304 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof. Paragraph 304 also contains one or more legal statements or conclusions to which no response is required.

305. The allegations in Paragraph 305 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 305. Paragraph 305 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof. Paragraph 305 also contains one or more legal statements or conclusions to which no response is required.

306. The allegations in Paragraph 306 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 306. Paragraph 306 also refers to one or more

written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

307. The allegations in Paragraph 307 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 307. Paragraph 307 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof.

308. The allegations in Paragraph 308 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 308. In addition, Paragraph 308 contains one or more legal statements or conclusions to which no response is required.

309. The allegations in Paragraph 309 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 309. In addition, Paragraph 309 contains one or more legal statements or conclusions to which no response is required.

310. The allegations in Paragraph 310 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the

extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 310. In addition, Paragraph 310 contains one or more legal statements or conclusions to which no response is required.

311. The allegations in Paragraph 311 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 311.

312. The allegations in Paragraph 312 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 312.

313. The allegations in Paragraph 313 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 313.

314. The allegations in Paragraph 314 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge,



information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 314.

315. The allegations in Paragraph 315 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 315. In addition, Paragraph 315 contains one or more legal statements or conclusions to which no response is required.

316. The allegations in Paragraph 316 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 316. In addition, Paragraph 316 contains one or more legal statements or conclusions to which no response is required.

317. The allegations in Paragraph 317 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 317.

318. The allegations in Paragraph 318 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and

therefore denies the allegations in Paragraph 318. In addition, Paragraph 318 contains one or more legal statements or conclusions to which no response is required.

319. The allegations in Paragraph 319 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 319. In addition, Paragraph 319 contains one or more legal statements or conclusions to which no response is required.

320. The allegations in Paragraph 320 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 320. In addition, Paragraph 320 contains one or more legal statements or conclusions to which no response is required.

321. The allegations in Paragraph 321 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 321. In addition, Paragraph 321 contains one or more legal statements or conclusions to which no response is required.

322. The allegations in Paragraph 322 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge,

information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 322. In addition, Paragraph 322 contains one or more legal statements or conclusions to which no response is required.

323. The allegations in Paragraph 323 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 323. In addition, Paragraph 323 contains one or more legal statements or conclusions to which no response is required.

324. The allegations in Paragraph 324 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 324. In addition, Paragraph 324 contains one or more legal statements or conclusions to which no response is required.

325. The allegations in Paragraph 325 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 325. In addition, Paragraph 325 contains one or more legal statements or conclusions to which no response is required.

326. The allegations in Paragraph 326 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the

extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 326. In addition, Paragraph 326 contains one or more legal statements or conclusions to which no response is required.

327. The allegations in Paragraph 327 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 327. In addition, Paragraph 327 contains one or more legal statements or conclusions to which no response is required.

328. The allegations in Paragraph 328 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 328. In addition, Paragraph 328 contains one or more legal statements or conclusions to which no response is required.

329. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 329. In addition, Paragraph 329 contains one or more legal statements or conclusions to which no response is required.

330. Admitted only that Smith Drug is a member of HDA and that the HDA issued Industry Compliance Guidelines. The remaining allegations in Paragraph 330 are denied as to

Smith Drug. As to other defendants, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 330. Paragraph 330 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof. Paragraph 330 also contains one or more legal statements or conclusions to which no response is required.

331. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 331. Paragraph 331 also contains one or more legal statements or conclusions to which no response is required.

332. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 332. Paragraph 332 also contains one or more legal statements or conclusions to which no response is required.

333. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 333. Paragraph 333 also contains one or more legal statements or conclusions to which no response is required.

334. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the

remaining allegations, and therefore denies the allegations in Paragraph 334. Paragraph 334 also contains one or more legal statements or conclusions to which no response is required.

335. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore no response is required. To the extent a response is required, Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the allegations, and therefore denies the allegations in Paragraph 335. Paragraph 335 also contains one or more legal statements or conclusions to which no response is required.

336. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 336. Paragraph 336 also contains one or more legal statements or conclusions to which no response is required.

337. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 337. Paragraph 337 also contains one or more legal statements or conclusions to which no response is required.

338. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 338.

Paragraph 338 also contains one or more legal statements or conclusions to which no response is required.

339. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 339. Paragraph 339 also contains one or more legal statements or conclusions to which no response is required.

340. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 340. Paragraph 340 also contains one or more legal statements or conclusions to which no response is required.

341. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 341. Paragraph 341 also contains one or more legal statements or conclusions to which no response is required.

342. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 342. Paragraph 342 also contains one or more legal statements or conclusions to which no response is required.

343. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 343. Paragraph 343 also contains one or more legal statements or conclusions to which no response is required.

344. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 344. Paragraph 344 also contains one or more legal statements or conclusions to which no response is required.

345. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 345. Paragraph 345 also contains one or more legal statements or conclusions to which no response is required.

346. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 346. Paragraph 346 also contains one or more legal statements or conclusions to which no response is required.

347. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 347.



Paragraph 347 also contains one or more legal statements or conclusions to which no response is required.

348. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 348. Paragraph 348 also contains one or more legal statements or conclusions to which no response is required.

349. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 349. Paragraph 349 also contains one or more legal statements or conclusions to which no response is required.

350. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 350. Paragraph 350 also contains one or more legal statements or conclusions to which no response is required.

351. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the remaining allegations, and therefore denies the remaining allegations in Paragraph 351. Paragraph 351 also contains one or more legal statements or conclusions to which no response is required.

352. Denied as to Smith Drug. Smith Drug, after reasonable investigation, is without knowledge, information or belief sufficient to form an opinion as to the truth or falsity of the

remaining allegations, and therefore denies the remaining allegations in Paragraph 352. Paragraph 352 also refers to one or more written documents, the contents of which speak for themselves, and Smith Drug specifically denies any characterization thereof. Paragraph 352 also contains one or more legal statements or conclusions to which no response is required.

**CLAIMS FOR RELIEF**

**COUNT I**

**VIOLATION OF RICO, 18 U.S.C. 1961 *et seq.*  
OPIOID MARKETING ENTERPRISE  
(Against the Marketing Manufacturer Defendants)**

353. Paragraph 353 is an incorporation paragraph that does not require a response.

354. The allegations in Paragraph 354 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 354 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 354.

355. The allegations in Paragraph 355 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 355 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 355.

356. The allegations in Paragraph 356 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 356 also contains one or more legal statements or conclusions to which no response is required.

To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 356.

357. The allegations in Paragraph 357 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 357 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 357.

358. The allegations in Paragraph 358 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 358 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 358.

359. The allegations in Paragraph 359 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 359 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 359.

360. The allegations in Paragraph 360 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 360 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 360.

361. The allegations in Paragraph 361 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 361 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 361.

362. The allegations in Paragraph 362 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 362 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 362.

363. The allegations in Paragraph 363 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 363 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 363.

364. The allegations in Paragraph 364 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 364 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 364.

365. The allegations in Paragraph 365 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 365 also contains one or more legal statements or conclusions to which no response is required.

To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 365.

366. The allegations in Paragraph 366 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 366 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 366.

367. The allegations in Paragraph 367 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 367 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 367.

368. The allegations in Paragraph 368 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 368 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 368.

369. The allegations in Paragraph 369 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 369 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 369.

370. The allegations in Paragraph 370 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 370 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 370.

371. The allegations in Paragraph 371 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 371 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 371.

372. The allegations in Paragraph 372 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 372 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 372.

373. The allegations in Paragraph 373 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 373 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 373.

374. The allegations in Paragraph 374 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 374 also contains one or more legal statements or conclusions to which no response is required.

To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 374.

375. The allegations in Paragraph 375 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 375 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 375.

376. The allegations in Paragraph 376 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 376 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 376.

377. The allegations in Paragraph 377 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 377 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 377.

378. The allegations in Paragraph 378 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 378 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 378.

379. The allegations in Paragraph 379 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 379 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 379.

## **COUNT II**

### **VIOLATION OF RICO, 18 U.S.C. 1961 *et seq.* OPIOID SUPPLY CHAIN ENTERPRISE (Against All Defendants)**

380. Paragraph 380 is an incorporation paragraph that does not require a response.

381. Paragraph 381 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 381.

382. Paragraph 382 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 382.

383. Paragraph 383 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 383.

384. Admitted in part; denied in part. Admitted only that Smith Drug is a member of the HDA. The remaining allegations in Paragraph 384 contain one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 384.



385. Paragraph 385 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 385.

386. Paragraph 386 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 386.

387. Paragraph 387 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 387.

388. Paragraph 388 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 388.

389. Paragraph 389 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 389.

390. Paragraph 390 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 390.

391. Paragraph 391 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 391.

392. Paragraph 392 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 392.

393. Paragraph 393 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 393.

394. Paragraph 394 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 394.

395. Paragraph 395 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 395.

396. Paragraph 396 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 396.

397. Paragraph 397 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 397.

398. Paragraph 398 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 398.

399. Paragraph 399 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 399.

400. Paragraph 400 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 400.

401. Paragraph 401 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 401.

402. Paragraph 402 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 402.

403. Paragraph 403 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 403.

404. Paragraph 404 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 404.

405. Paragraph 405 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 405.

406. Paragraph 406 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 406.

407. Paragraph 407 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 407.

408. Paragraph 408 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 408.

### **COUNT III**

#### **LANHAM ACT (Against All Defendants)**

409. Paragraph 409 is an incorporation paragraph that does not require a response.

410. Paragraph 410 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 410.

411. Paragraph 411 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 411.

412. Paragraph 412 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 412.

413. Paragraph 413 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 413.

414. Paragraph 414 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 414.

415. Paragraph 415 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 415.

416. Paragraph 416 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 416.

417. Paragraph 417 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 417.

418. Paragraph 418 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 418.

#### **COUNT IV**

#### **NUISANCE**

#### **(Against Marketing Manufacturer Defendants)**

419. Paragraph 419 is an incorporation paragraph that does not require a response.

420. The allegations in Paragraph 420 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph

420 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 420.

421. The allegations in Paragraph 421 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 421 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 421.

422. The allegations in Paragraph 422 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 422 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 422.

423. The allegations in Paragraph 423 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 423 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 423.

424. The allegations in Paragraph 424 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 424 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 424.

425. The allegations in Paragraph 425 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 425 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 425.

426. The allegations in Paragraph 426 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 426 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 426.

427. The allegations in Paragraph 427 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 427 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 427.

428. The allegations in Paragraph 428 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 428 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 428.

429. The allegations in Paragraph 429 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 429 also contains one or more legal statements or conclusions to which no response is required.

To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 429.

430. The allegations in Paragraph 430 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 430 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 430.

431. The allegations in Paragraph 431 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 431 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 431.

432. The allegations in Paragraph 432 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 432 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 432.

### **COUNT V**

#### **NEGLIGENCE AND NEGLIGENCE PER SE (Against Marketing Manufacturer Defendants)**

433. Paragraph 433 is an incorporation paragraph to which no response is required.

434. The allegations in Paragraph 434 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 434 also contains one or more legal statements or conclusions to which no response is required.



To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 434.

435. The allegations in Paragraph 435 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 435 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 435.

436. The allegations in Paragraph 436 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 436 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 436.

437. The allegations in Paragraph 437 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 437 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 437.

438. The allegations in Paragraph 438 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 438 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 438.

439. The allegations in Paragraph 439 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 439 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 439.

440. The allegations in Paragraph 440 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 440 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 440.

441. The allegations in Paragraph 441 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 441 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 441.

442. The allegations in Paragraph 442 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 442 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 442.

443. The allegations in Paragraph 443 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 443 also contains one or more legal statements or conclusions to which no response is required.

To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 443.

444. The allegations in Paragraph 444 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 444 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 444.

445. The allegations in Paragraph 445 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 445 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 445.

## **COUNT VI**

### **UNJUST ENRICHMENT (Against Marketing Manufacturer Defendants)**

446. Paragraph 446 is an incorporation paragraph to which no response is required.

447. The allegations in Paragraph 447 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 447 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 447.

448. The allegations in Paragraph 448 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 448 also contains one or more legal statements or conclusions to which no response is required.

To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 448.

449. The allegations in Paragraph 449 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 449 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 449.

450. The allegations in Paragraph 450 are directed at and/or describe the conduct of one or more defendants other than Smith Drug, and therefore no response is required. Paragraph 450 also contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 450.

## **COUNT VII**

### **NUISANCE (Against Diversion Defendants)**

451. Paragraph 451 is an incorporation paragraph to which no response is required.

452. Paragraph 452 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 452.

453. Paragraph 453 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 453.

454. Paragraph 454 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 454.

455. Paragraph 455 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 455.

456. Paragraph 456 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 456.

457. Paragraph 457 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 457.

458. Paragraph 458 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 458.

459. Paragraph 459 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 459.

460. Paragraph 460 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 460.

461. Paragraph 461 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 461.

462. Paragraph 462 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 462.

463. Paragraph 463 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 463.

464. Paragraph 464 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 464.

### **COUNT VIII**

#### **NEGLIGENCE AND NEGLIGENCE PER SE (Against Diversion Defendants)**

465. Paragraph 465 is an incorporation paragraph to which no response is required.

466. Paragraph 466 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 466.

467. Paragraph 467 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 467.

468. Paragraph 468 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 468.

469. Paragraph 469 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 469.

470. Paragraph 470 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 470.

471. Paragraph 471 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 471.

472. Paragraph 472 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 472.

473. Paragraph 473 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 473.

474. Paragraph 474 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 474.

475. Paragraph 475 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 475.

476. Paragraph 476 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 476.

477. Paragraph 477 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 477.

478. Paragraph 478 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 478.

## **COUNT IX**

### **UNJUST ENRICHMENT (Against Diversion Defendants)**

479. Paragraph 479 is an incorporation paragraph to which no response is required.

480. Paragraph 480 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 480.

481. Paragraph 481 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 481.



482. Paragraph 482 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 482.

483. Paragraph 483 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 483.

484. Paragraph 484 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 484.

**COUNT X**

**CIVIL CONSPIRACY  
(Against All Defendants)**

485. Paragraph 485 is an incorporation paragraph to which no response is required.

486. Paragraph 486 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 486.

487. Paragraph 487 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 487.

488. Paragraph 488 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 488.

489. Paragraph 489 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 489.

490. Paragraph 490 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 490.

491. Paragraph 491 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 491.

492. Paragraph 492 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 492.

493. Paragraph 493 contains one or more legal statements or conclusions to which no response is required. To the extent a response is deemed to be required, Smith Drug denies the allegations in Paragraph 493.

#### **PRAYER FOR RELIEF**

WHEREFORE, Smith Drug respectfully requests that judgment be entered in its favor and against Plaintiff and further requests that it be awarded costs and attorneys' fees and such other relief that the Court deems appropriate and just.

#### **SMITH DRUG'S AFFIRMATIVE DEFENSES**

1. The FAC fails to state a claim upon which relief can be granted.

2. Plaintiff's claims are barred because Plaintiff lacks standing under Article III to the United States Constitution and under Oklahoma law.

3. Plaintiff's claims are barred by the applicable statutes of limitations.

4. Plaintiff has failed to sufficiently plead the alleged harm(s) it has allegedly suffered.

5. Plaintiff's claims fail because Plaintiff has failed to plead a legally cognizable damages theory.

6. Plaintiff has failed to identify any specific "suspicious order" filled by Smith Drug.

7. Plaintiff's claims fail because Plaintiff cannot prove the presence of or identify specifically any of the products sold and/or distributed by Smith Drug which are alleged to have caused or contributed to Plaintiff's alleged damages.

8. Plaintiff's claims are barred by the doctrine of preemption.

9. Plaintiff's negligence claim fails because Plaintiff lacks a private right of action to enforce federal or state statutory or regulatory duties through a common-law cause of action for negligence.

10. Plaintiff's negligence claim fails because Plaintiff fails to allege facts showing that Smith Drug had any common-law duty to monitor suspicious orders or that Smith Drug owed Plaintiff a duty of care.

11. Plaintiff's negligence claim fails because Plaintiff fails to allege facts showing that Smith Drug breached any duty owed to Plaintiff.

12. Plaintiff's negligence claim fails because Plaintiff fails to allege facts showing negligence per se.

13. Plaintiff's claims fail because Plaintiff cannot prove any damages that were proximately caused by Smith Drug.

14. Plaintiff's claims against Smith Drug fail under the bulk-supplier doctrine and the sophisticated-user defense.

15. Plaintiff's recovery is barred by the free-public-service doctrine.

16. Plaintiff's negligence claim is barred by the economic-loss doctrine.

17. Smith Drug relies upon the manufacturers' product-use instructions, including but not limited to the product insert, to fully satisfy its duty to warn all end users, sophisticated users, and bulk-supply purchasers.

18. To the extent it is determined that the product(s) distributed by Smith Drug did cause, in whole or in part, Plaintiff's alleged damages, which Smith Drug specifically denies, then the product(s) distributed by Smith Drug was repackaged and distributed by a sophisticated user of the product who was knowledgeable of its hazards and failed to provide the end user with the warnings Smith Drug included in each shipment.

19. Any product(s) allegedly sold and/or distributed by Smith Drug complied with all applicable governmental and industry rules, regulations, and standards.

20. Smith Drug relies upon the doctrine of abnormal use, misuse, and unintended use that was inconsistent with the product-use instructions included with the relevant products distributed by Smith Drug or with other known safety practices.

21. Smith Drug at all times complied with all applicable governmental and industry rules, regulations, and standards when it distributed any relevant product in Oklahoma and/or the Nation.

22. Smith Drug asserts the defense of absence of wanton, willful, or malicious conduct.

23. There is no factual or legal basis to support a claim for punitive damages against Smith Drug, and any such claim against Smith Drug should be dismissed.

24. At all times, and with respect to all matters alleged herein, Smith Drug acted reasonably, prudently, in good faith, with good cause, and within the parties' reasonable expectations.

25. Plaintiff has failed to exhaust their administrative or tribal remedies.

26. Smith Drug adopts and asserts the defense of comparative assumption of risk and/or comparative fault.

27. Plaintiff's damages are the result of act(s) or omission(s) of parties or non-parties to this action over whom Smith Drug has no responsibility or control.

28. To the extent any agents, employees, or contractors of Smith Drug caused any of the damages alleged by Plaintiff, such agents, employees, or contractors were acting outside the scope of the agency, employment, or contract with Smith Drug, and any recovery against Smith Drug must be reduced by the proportionate fault of such agents, employees, or contractors.

29. Smith Drug asserts that any loss or damage alleged by Plaintiff was proximately caused or contributed to by the act(s) or omission(s) of others and not Smith Drug, and, accordingly, recovery or relief against Smith Drug is barred. In the alternative, the act(s) or omission(s) of others were a concurrent cause that proximately contributed to the damages, and Smith Drug requests that the Court compare and assess the proportionate percentage of negligence attributable to those persons and reduce any ultimate recovery against Smith Drug accordingly.

30. Smith Drug asserts that any loss or damage alleged by Plaintiff was proximately caused or contributed to by a superseding or intervening cause or causes other than an act or omission on the part of Smith Drug, and, accordingly, Plaintiff is barred from any recovery herein. In the alternative, the damages must be apportioned such that Smith Drug is only held responsible for those damages for which it is found responsible, if any.

31. Plaintiff's claims for (i) statutory public nuisance, (ii) common law public nuisance, and (iii) negligence are abrogated by the Oklahoma Product Liability Act.

32. Plaintiff has failed to join all necessary and/or indispensable parties to afford a just adjudication of the causes of action alleged in the FAC.

33. Plaintiff's claims are barred in whole or in part by the doctrines of laches, waiver, release, unclean hands, accord and satisfaction, estoppel, consent, agreement, ratification, contributory negligence, illegality, and any other matter constituting an avoidance or affirmative defense.

34. Smith Drug is entitled to an offset, should any damages be awarded against it, in the amount of damages or settlement recovered by Plaintiff with respect to the same alleged injuries.

35. The relief requested by Plaintiff in the FAC is unconstitutional under the applicable State Constitution, the United States Constitution, and the laws of the United States in that it violates due process and equal protection guarantees, places an undue burden on interstate commerce, and violates constitutional proscriptions against excessive fines.

36. The attorneys' fees, costs, and expenses sought to be recovered by Plaintiff in the FAC are neither reasonable nor necessary and Plaintiff is not entitled to any attorneys' fees, costs, expenses, pre-judgment interest, or post-judgment interest.

37. To the extent Plaintiff asserts a statutory public nuisance claim, it fails because the FAC fails to allege facts demonstrating a statutory violation.

38. To the extent Plaintiff asserts a statutory public nuisance claim, it fails because Smith Drug's conduct was in accordance with Oklahoma controlled-substance regulations, and, thus, Smith Drug cannot be liable under 50 Okla. Stat. § 50-4.

39. To the extent Plaintiff asserts a common-law public-nuisance claim, it fails because the FAC identifies no right held by the general public that has been interfered with, invaded, or impaired, and the sale of highly regulated legal products cannot constitute a public nuisance.

40. To the extent Plaintiff asserts a common-law public-nuisance claim, it fails because the FAC fails to allege facts demonstrating that Smith Drug's alleged interference with a public right was intentional.

41. Plaintiff's unjust-enrichment claim fails because the FAC fails to allege facts sufficient to support the elements of unjust enrichment.

42. Plaintiff's unjust-enrichment claim fails because Smith Drug did not receive and retain any alleged benefit from Plaintiff.

43. Plaintiff's civil-conspiracy claim fails because the FAC fails to allege facts sufficient to support the elements of civil conspiracy.

44. Smith Drug asserts its right to litigate punitive damages and offer proof in a separate trial than that which determines liability and compensatory damages.

45. Plaintiff's claims are barred by the statewide-concern doctrine.

46. Plaintiff's claims for exemplary or punitive damages violate Smith Drug's rights under the Due Process and Excessive Fines clauses of the Fifth, Sixth, Eighth, and Fourteenth

Amendments of the United States Constitution and the analogous provisions of the Oklahoma State Constitution and under the First Amendment of the United States Constitution and the analogous provisions of the Oklahoma State Constitution.

47. Smith Drug reserves the right to assert such claims, whether they be cross-claims, third-party claims, or other claims, including claims for indemnification and contribution, as may prove applicable through investigation and discovery and hereby reserves all rights with respect to any such claims or potential claims.

48. Smith Drug's liability, if any, will not result from its own conduct but is solely the result of an obligation imposed by law, and thus Smith Drug is entitled to complete indemnity, express or implied, by other parties.

49. Smith Drug's liability, if any, will not result from its own negligence, intentional acts, or other acts or omissions and thus Smith Drug is entitled to indemnity under 12 Okla. Stat. § 12-832.1.

50. The FAC, and each alleged claim therein, is barred, in whole or in part, by the applicable statute of repose.

51. Venue may be improper and/or inconvenient in this Court.

52. The FAC, and each alleged claim contained therein, is barred, in whole or in part, because Plaintiff lacks capacity to bring their claims, including claims indirectly maintained on behalf of their citizens and claims brought as *parens patriae*.

53. Plaintiff's claims are barred because Plaintiff is not the real party in interest.

54. Plaintiff's claims are not ripe and/or have been mooted.



55. Plaintiff's claims and damages are barred or limited, in whole or in part, by common-law, statutory, and state constitutional constraints on the exercise of police powers by a state, municipality or domestic dependent nation.

56. Plaintiff's claims and damages are barred or limited by the political-question and separation-of-powers doctrines and because their claims implicate issues of statewide importance that are reserved for state regulation.

57. Plaintiff may be barred by the doctrines of res judicata and collateral estoppel from all forms of relief sought in the FAC.

58. Plaintiff's claims are barred or limited by the terms and effect of any applicable Consent Judgment, including by operation of the doctrines of res judicata and collateral estoppel, failure to fulfill conditions precedent, failure to provide requisite notice, payment, accord and satisfaction, and compromise and settlement.

59. Plaintiff's claims against Smith Drug do not arise out of the same transactions or occurrences as its claims against other defendants, as required for joinder of parties.

60. Plaintiff's injuries and damages, if any, were due to illicit use or abuse of the medications at issue on the part of the medications' users, for which Smith Drug is not liable.

61. The FAC, and each alleged claim contained therein, is barred, in whole or in part, because the derivative-injury rule and the remoteness doctrine bar Plaintiff from recovering payments that it allegedly made on behalf of its residents to reimburse any expenses for health care, pharmaceutical care, and other public services.

62. Plaintiff's claims are barred to the extent that Smith Drug has valid defenses which bar recovery by those persons on whose behalf Plaintiff purportedly seeks recovery.

63. Plaintiff's claims are subject to all defenses that could be asserted if Plaintiff's claims were properly made by individuals on whose behalf or for whose alleged damages Plaintiff seeks to recover.

64. Plaintiff has failed to comply with the requirement that they identify each patient in whose claim(s) they have a subrogation interest and on whose behalf they have incurred costs.

65. Plaintiff fails to plead that it reimbursed any prescriptions for any opioid distributed by Smith Drug that harmed patients and should not have been written, or that Smith Drug's allegedly improper conduct caused any health care provider to write any ineffective or harmful opioid prescriptions.

66. Plaintiff's claims are barred to the extent that Plaintiff's alleged damages are speculative, uncertain, and hypothetical.

67. Any verdict or judgment that might be recovered by Plaintiff must be reduced by those amounts that have already indemnified or with reasonable certainty will indemnify Plaintiff in whole or in part for any past or future claimed economic loss from any collateral source or any other applicable law.

68. If Smith Drug is found liable for Plaintiff's alleged injuries and losses (which liability is specifically denied), the facts will show that Plaintiff's negligence, or the negligence of any person on whose behalf Plaintiff is asserting claims, is of a greater degree than the combined negligence of any persons, firms or corporation causing its damages and thus its negligence claims are barred. 23 Okla. Stat. § 23-13.

69. If Smith Drug is found liable for Plaintiff's alleged injuries and losses (which liability is specifically denied), Smith Drug is entitled to a reduction of damages based on

Plaintiff's own negligence or the negligence of any person on whose behalf Plaintiff is asserting claims. 23 Okla. Stat. § 23-14.

70. If Smith Drug is found liable for Plaintiff's alleged injuries and losses (which liability is specifically denied), Smith Drug would be liable only for its proportionate share of the damages that represent economic loss proximately caused by Smith Drug. 23 Okla. Stat. § 23-15.

71. The damages which Plaintiff may be entitled to recover if liability is established (which liability is specifically denied) are limited to reasonable damages, and exclude unconscionable and grossly oppressive damages contrary to substantial justice. *See* 23 Okla. Stat. § 97.

72. Any damages that Plaintiff may recover against Smith Drug must be reduced to the extent that Plaintiff is seeking to recover damages for alleged injuries or expenses related to the same user(s) of the subject prescription medications, or damages recovered or recoverable by other actual or potential plaintiffs. Any damages that Plaintiff may recover against Smith Drug must be reduced to the extent they unjustly enrich Plaintiff.

73. Plaintiff's claims against Smith Drug are barred to the extent they rely, explicitly or implicitly, on a theory of market-share liability.

74. Plaintiff's claims are barred, in whole or in part, from recovering costs incurred in providing public services by the free-public-services and/or municipal-cost-recovery doctrines.

75. Plaintiff may have failed or refused to exercise reasonable care and diligence to avoid loss and minimize damages and, therefore, may not recover for losses that could have been prevented by reasonable efforts on their part, or by expenditures which might reasonably have

been made. Recovery, if any, should therefore be reduced by Plaintiff's failure to mitigate damages, if any.

76. To the extent Plaintiff attempts to seek equitable relief, Plaintiff is not entitled to such relief because Plaintiff has an adequate remedy at law.

77. The claims asserted in the FAC are barred, in whole or in part, because federal agencies have exclusive or primary jurisdiction over the matters asserted in the FAC.

78. Plaintiff's claims are preempted by federal law, including (without limitation) the federal Controlled Substances Act and the Food, Drug, and Cosmetic Act ("FDCA").

79. The conduct of Smith Drug conformed with the FDCA and the requirements of the FDA, and the activities of Smith Drug alleged in the FAC conformed with all state and federal statutes, regulations, and industry standards based on the state of knowledge at the relevant time(s) alleged in the FAC.

80. Plaintiff's claims are barred, in whole or in part, by conflict preemption as set forth in the United States Supreme Court's decisions in *PLIVA, Inc. v. Mensing*, 131 S. Ct. 2567 (2011) and *Mutual Pharm. Co. v. Bartlett*, 133 S. Ct. 2466 (2013).

81. Plaintiff's claims are preempted insofar as they conflict with Congress's purposes and objectives in enacting relevant federal legislation and authorizing regulations, including the Hatch-Waxman Amendments to the FDCA and implementing regulations. *See Geier v. Am. Honda Motor Co. Inc.*, 529 U.S. 861 (2000).

82. To the extent Plaintiff asserts claims that depend solely on violations of federal law, including any claims of a "fraud on the FDA" with respect to the Marketing Manufacturer Defendants' disclosure of information related to the safety of their medications at issue, such

claims are barred and should be dismissed. *See Buckman v. Plaintiffs' Legal Comm.*, 531 U.S. 341, 121 S. Ct. 1012, 148 L. Ed. 2d 854 (2001).

83. To the extent Plaintiff asserts claims that depend solely on violations of federal law, including any claims of “fraud on the DEA” with respect to Smith Drug’s and/or each Defendants’ compliance with statutes or regulations administered and/or enforced by the DEA, such claims are barred and should be dismissed. *See Buckman v. Plaintiffs' Legal Comm’n*, 531 U.S. 341, 121 S. Ct. 1012, 148 L. Ed. 2d (2001).

84. Plaintiff’s claims are barred, in whole or in part, by the deference that common law accords discretionary actions by the FDA under the FDCA and discretionary actions by the DEA under the Controlled Substances Act.

85. If Plaintiff incurred the damages alleged, which is expressly denied, Smith Drug is not liable for damages because the methods, standards, or techniques of designing, manufacturing, labeling, and distributing of the prescription medications at issue complied with and were in conformity with the laws and regulations of the Controlled Substances Act, the FDCA, and the generally recognized state of the art in the industry at the time the product was designed, manufactured, labeled, and distributed.

86. Plaintiff’s claims are barred to the extent they are based on any allegations involving failure to provide adequate warnings or information because all warnings or information that accompanied the allegedly distributed products were approved by the United States Food & Drug Administration for a product approved under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et seq.), as amended, or Section 351, Public Health Service Act (42 U.S.C. § 262), as amended, or the warnings and information provided were those stated in

monographs developed by the United States Food & Drug Administration for pharmaceutical products that may be distributed without an approved new drug application.

87. Plaintiff's claims are barred in whole or in part under the learned-intermediary doctrine.

88. To the extent that Plaintiff relies on letters or other informal guidance from the DEA to establish Smith Drug's regulatory duties, such informal guidance cannot enlarge Smith Drug's regulatory duties in the absence of compliance by DEA with the requirements by the Administrative Procedure Act, 5 U.S.C. § 551 *et seq.*

89. Plaintiff's claims are barred to the extent they are based on alleged violations of industry customs because purported industry customs do not create legal duties on Smith Drug.

90. The claims asserted in the FAC are barred, in whole or in part, by the Restatement (Second) of Torts § 402A, Comments j and k, and Restatement (Third) of Torts: Products Liability § 6.

91. Plaintiff's claim of public nuisance is barred or limited because no action of Smith Drug involved interference with real property; illegal conduct perpetrated by third parties involving the use of an otherwise legal product does not involve a public right against the distributor sufficient to state a claim for public nuisance; the alleged public nuisance would have impermissible extraterritorial reach; and the alleged conduct of Smith Drug is too remote from the alleged injury as a matter of law and due process.

92. Plaintiff's claims are barred, reduced, and/or limited pursuant to the applicable Oklahoma statutory and common law regarding limitations of awards, caps on recovery, and setoffs.

93. To the extent that Plaintiff seeks punitive, exemplary, or aggravated damages, any such damages are barred because the product at issue, and its labeling, were subject to and received pre-market approval by the FDA under 52 Stat. 1040, 21 U.S.C. § 301.

94. Plaintiff's claims for punitive or exemplary damages are barred because Plaintiff cannot prove by clear and convincing evidence that Smith Drug was grossly negligent and Smith Drug has neither acted nor failed to act in a manner that entitles Plaintiff to recover punitive or exemplary damages.

95. Plaintiff cannot obtain relief on its claims based on actions undertaken by Smith Drug of which Smith Drug provided notice of all material facts.

96. Smith Drug is entitled to, and claims the benefit of, all defenses and presumptions set forth in or arising from any rule of law or statute of this State or any other state whose substantive law might control the action.

97. Smith Drug asserts all applicable defenses under Federal Rules of Civil Procedure 8(c) and 12(b) and/or Oklahoma Rules of Civil Procedure § 2012 as investigation and discovery proceeds.

98. To the extent that Plaintiff's claims relate to Smith Drug's alleged advertising, public statements, lobbying, or other activities protected by the First Amendment to the Constitution of the United States or by the Constitution of the State of Oklahoma or that of any other state whose laws may apply, such claims are barred. Smith Drug is immunized for claims relating to Smith Drug's involvement with third-party associations, and or other organizations that are separate from Smith Drug, under the *Noerr-Pennington* doctrine.

99. Plaintiff's damages, if any, were the direct result of pre-existing medical conditions, and/or occurred by operation of nature or as a result of circumstances over which Smith Drug had and continues to have no control.

100. A percentage of Plaintiff's alleged injury or loss, if proven, is attributable to (i) Plaintiff, (ii) other parties from whom Plaintiff seeks recovery, and (iii) persons from whom Plaintiff does not seek recovery in this action, including, but not limited to, prescribing practitioners, non-party pharmacies and pharmacists, individuals and entities involved in diversion and distribution of prescription opioids, individuals and entities involved in distribution and sale of illegal opioids, individuals involved in procuring diverted prescription opioids and/or illegal drugs, delivery services, federal, state, and local government entities, and health insurers and pharmacy benefit managers. 23 Okla. Stat. § 23-15.

101. Plaintiff's claims are barred, in whole or in part, because any and all damages alleged by Plaintiff were caused by misuse of the products involved, failure to use the products properly, and/or alteration or modification of, or criminal misuse or abuse of, the prescribed medications by third parties over whom Smith Drug had no control and for whom Smith Drug is not responsible.

102. Plaintiff's injuries and damages, if any, were due to illicit use or abuse of the medications at issue on the part of the medication users, for which Smith Drug is not liable.

103. Plaintiff's claims or damages are barred because users of the medications at issue used them after they knew, or should have known, of their alleged risks.

104. To the extent that Plaintiff is alleging fraud, fraudulent concealment, or similar conduct, Plaintiff has failed to plead fraud with sufficient particularity.



105. Plaintiff's injuries and damages, if any, were due to preexisting conditions or idiosyncratic reaction to the medications on the part of the medication users, for which Smith Drug cannot be held responsible.

106. Should Smith Drug be held liable to Plaintiff, which liability is specifically denied, Smith Drug would be entitled to a credit or set-off for sums received or available from or on behalf of any tortfeasor(s), by way of judgment or settlement, for the same injuries alleged in the FAC.

107. Plaintiff's claims are barred, in whole or in part, because neither users nor their prescribers relied to their detriment upon any statement by Smith Drug in determining to use medications at issue.

108. Smith Drug is not liable for statements or omissions in the Marketing Manufacturer Defendants branded or unbranded materials.

109. To the extent that Plaintiff seeks relief for Smith Drug's conduct occurring before enactment of the applicable statutes or regulations, the claims fail because the statutes and regulations do not apply retroactively.

110. Plaintiff fails to plead any actionable misrepresentation or omission made by or attributable to Smith Drug.

111. Plaintiff's public-nuisance claim is barred or limited to the extent that Plaintiff lacks the statutory authority to bring a nuisance claim under Oklahoma law or their own applicable laws, codes, or regulations.

112. Plaintiff's claims or damages are barred because users of the medications at issue used them illegally and not after properly being prescribed the medication by a licensed health care provider.

113. Smith Drug did not owe or breach any statutory or common law duty to Plaintiff.

114. Smith Drug has no duty to protect Plaintiff from intentional criminal acts of third persons, which are superseding causes that extinguish any liability.

115. Smith Drug denies all types of causation, including cause in fact, proximate cause, and producing cause, with respect to the claims asserted against Smith Drug.

116. Plaintiff's claims are barred, in whole or in part, to the extent that they violate the Ex Post Facto clauses of the United States and Oklahoma Constitutions.

117. Smith Drug asserts its right to a proportionate reduction of any damages found against Smith Drug based on the negligence or other conduct of any settling tortfeasor and/or responsible third party and/or Plaintiff.

118. Plaintiff's claims are barred in whole or in part because no statement or conduct of Smith Drug was misleading, unfair, or deceptive.

119. Smith Drug is not liable for any injury allegedly caused to Plaintiff by the products in question because all formulations, labeling, and design of the products complied with mandatory safety standards or regulations adopted and promulgated by the federal government, or an agency of the federal government, applicable to the products at the time of manufacture and that governed the product risk that allegedly caused the purported harm.

120. The FAC is barred, in whole or in part, by the doctrines of acquiescence, settlement, or release.

121. Plaintiff's RICO claims are barred, in whole or in part, by the absence of the existence of an "enterprise" for the purposes of RICO liability.

122. Plaintiff's RICO claims are barred, in whole or in part, by the absence of an "association" between H. D. Smith and any other defendant or entity alleged to be part of an "enterprise" for purposes of RICO.

123. Plaintiff's RICO claims are barred, in whole or in part, because H. D. Smith did not participate in any "enterprise."

124. Plaintiff's RICO claims are barred, in whole or in part, because H. D. Smith did not engage in a pattern of racketeering activity under RICO.

125. Plaintiff's RICO claims are barred, in whole or in part, because H. D. Smith did not knowingly agree to facilitate any schemes that include the operation or management of a RICO enterprise.

126. Plaintiff's claims are barred, in whole or in part, by the absence of a conspiracy, including a lack of agreement to commit any unlawful predicate acts, necessary to establish a valid RICO claim under 18 U.S.C. § 1962(d).

127. Plaintiff's RICO claims are barred, in whole or in part, because H. D. Smith did not commit any predicate acts that may give rise to liability under 18 U.S.C. § 1962.

128. Plaintiff's RICO claims are barred, in whole or in part, because there are no allegations that H. D. Smith adopted the goal of furthering or facilitating any criminal endeavor as necessary to support Plaintiff's civil conspiracy theory of liability.

129. Plaintiff's alleged damages do not constitute injury to business or property interests cognizable under RICO.

130. Plaintiff's RICO claims are barred, in whole or in part, because the alleged predicated acts, namely failure to report and halt suspicious orders under the Controlled Substances Act, do not qualify as racketeering activity for purposes of RICO.

131. Plaintiff's claims are barred because Plaintiff has not and cannot identify a criminal predicate act sufficient to give rise to liability under the statute, a conviction, or that Plaintiff suffered any injury that resulted from the alleged criminal act.

132. Smith Drug adopts and incorporates herein by reference each and every affirmative defense raised by any of the other Defendants as if set forth herein.

133. Smith Drug reserves the right to assert additional affirmative defenses, as may be determined during the course of additional investigation and discovery.

**DEMAND FOR JURY TRIAL**

Smith Drug hereby demands a trial by jury of all issues so triable.

Dated: July 26, 2019

Respectfully Submitted,

**FOX ROTHSCHILD LLP**

/s/ John J. Haggerty

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*Counsel for Defendant*

*Smith Drug Company*

**CERTIFICATE OF SERVICE**

I certify that, on this 26<sup>th</sup> day of July 2019, I electronically filed a copy of the foregoing Defendant Smith Drug Company's Answer and Affirmative Defenses to Plaintiff's First Amended Complaint using the CM/ECF system, which sent notification of such filing to all counsel of record.

**FOX ROTHSCHILD LLP**

Dated: July 26, 2019

BY: /s/ John J. Haggerty  
John J. Haggerty